



**US Army Corps
of Engineers**
Omaha District

PUBLIC NOTICE

Application No: NE 98-20005, GP 98-05
Applicant: General Public, Govt. Agencies
Waterway: Manmade lakes and ponds
Issue Date: January 24, 2003
Expiration Date: February 14, 2003

21 DAY NOTICE

Reply To:
NEBRASKA REGULATORY OFFICE – KEARNEY
1430 CENTRAL AVENUE, KEARNEY, NEBRASKA 68847

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

**REGIONAL GENERAL PERMIT FOR LAKE AND POND RESTORATION PROJECTS
IN THE STATE OF NEBRASKA**

The District Engineer, U.S. Army Corps of Engineers, Omaha District proposes to reissue a regional general permit (GP) for lake and pond restoration/habitat improvement/sediment control projects by the general public and government agencies. Permits are issued under Section 404 of the Clean Water Act which regulates the discharge of dredged or fill material in the nation's waters. Since issuance on July 6, 1998, 23 projects have been authorized under the GP.

This permit is in accordance with regulations governing the Corps regulatory program. The regulations provide that the District Engineer may issue a general permit for certain clearly described categories of structures or work requiring Department of the Army permits, which are substantially similar in nature and that cause only minimal adverse individual or cumulative effects on the environment.

APPLICANT: General public, government agencies

PROJECT LOCATION: Manmade lakes and ponds in the State of Nebraska that are waters of the United States

PROJECT DESCRIPTION: The permit authorizes certain discharges into lakes or ponds that are associated with the hydraulic or mechanical dredging of accumulated sediments. The discharges must be for the purpose of creation or enhancement of fish or wildlife habitat, construction of

sediment control facilities, fishing piers, or shoreline stabilization. The permit also authorizes the use of bulldozers to remove accumulated sediment. Dredging or excavating will not exceed the elevations and contours at the time of original pond/lake construction. Dredged material that is discharged to upland sites must be contained by berms and allow sufficient settling time before water returns to the lake or pond. Each application will be coordinated with agencies through the procedure described in 33 CFR Part 330 (Appendix A(C)(13)(e).

The following revisions have been made to the proposed reissuance of GP 98-05: (1) “Waters of the United States” has been added to project location in response to the SWANCC court ruling. (2) “Fishing piers” has been added as a fill activity. (3) The agency coordination timeline reflects the changes in the issuance of nationwide permits in the January 15, 2002 Federal Register (i.e., 10 days for notification, 15 additional days to submit comments). (4) The project description has been rewritten to reflect the rescinding of the Tulloch rule in 1998. (5) Addition of the following general condition: No individual action under this GP shall be allowed if it jeopardizes the continued existence, or results in the take, of state-listed threatened or endangered species described as Key Species in Title 117-Nebraska Surface Water Quality Standards. (6) Revision of application procedure to reflect reorganization of the Nebraska Regulatory Office.

PROJECT PURPOSE: Restore lakes and ponds to bottom elevations and contours existing at the date of completed construction.

CULTURAL RESOURCES: No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C.

ENDANGERED SPECIES: Pursuant to the Endangered Species Act, all proposed projects will be reviewed for impacts to threatened or endangered species and their critical habitat. Listed species may occur in the general area, but cannot be adversely affected by the project.

WATER QUALITY CERTIFICATION: Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state’s opinion that the discharge will not violate applicable water quality standards.

PUBLIC INTEREST REVIEW: The decision whether to issue the Corps’ permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed/completed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against their reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic

properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R. Part 230).

COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State, and Local agencies and officials, Indian Tribes and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

Anyone whose interests may be affected by the proposed/completed work is invited to submit favorable or unfavorable written comments to the **Nebraska Regulatory Office–Kearney, Nebraska 68847 or send an e-mail to dwight.k.tillotson@usace.army.mil**. The District Engineer is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic system's functional values, cumulative and secondary effects and endangered species. All comments received will be considered public information; copies of all comments, including names and addresses of commentors, may be provided to the applicant unless confidentiality is requested. Comments must be submitted on or before the expiration date (located at the top of the first page) of this notice to be considered in the subsequent actions on this application.

PUBLIC HEARING: Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state the reason(s) for holding a public hearing. If the District Engineer determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

ADDITIONAL INFORMATION: For additional information, please call **Keith Tillotson at 308-234-1403**.